



LISA M. GARRETT
DIRECTOR OF PERSONNEL

COUNTY OF LOS ANGELES DEPARTMENT OF HUMAN RESOURCES

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ADOPTED

BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

November 17, 2015

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

11 November 17, 2015


PATRICK O'QUINN
ACTING EXECUTIVE OFFICER

Dear Supervisors:

**AMENDMENT NUMBER NINE TO CONTRACT NO. 74576 BETWEEN
THE COUNTY OF LOS ANGELES AND XEROX BUSINESS SERVICES, LLC (F/K/A AFFILIATED
COMPUTER SERVICES, INC.) AND BUCK CONSULTANTS, LLC
FOR ADMINISTRATIVE SERVICES FOR CAFETERIA AND NON-CAFETERIA BENEFIT PLANS
AND ABSENCE MANAGEMENT SERVICES
(ALL DISTRICTS) (3 VOTES)**

SUBJECT

Request approval of Amendment Number Nine to County Contract No. 74576 with Xerox Business Services, LLC (f/k/a Affiliated Computer Services, Inc.) and Buck Consultants, LLC (Buck) for Administrative Services for Cafeteria and Non-Cafeteria Benefit Plans and the Absence Management System to add services required for the County of Los Angeles (County) to comply with the Affordable Care Act Employer Mandate.

IT IS RECOMMENDED THAT THE BOARD:

1. Delegate authority to the Director of Personnel, or her designee, to finalize and execute an amendment, substantially similar to the attached Amendment Number Nine (Attachment I), to Contract Number 74576 (Contract) with Xerox and Buck (cumulatively, Buck), effective upon execution of the amendment through the expiration of the Contract on December 31, 2016 to: (1) add administrative services mandated by the Affordable Care Act (ACA) Employer Mandate, including but not limited to the creation and filing of reports with the Internal Revenue Service (IRS) and the creation and provision of new tax forms to County employees, (2) establish a contingency allowance to be utilized, if needed, for additional work that may be required due to any substantial changes that may be made to the ACA Employer Mandate, and (3) increase the maximum Contract sum accordingly by \$424,330, including \$383,300 for ACA Employer Mandate services and \$41,030

for the contingency allowance.

2. Delegate authority to the Director of Personnel, or her designee, to amend the Contract as appropriate to acquire other additional services related to the ACA Employer Mandate, with a maximum cost up to the contingency allowance amount of \$41,030.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

Purpose

Under the ACA Employer Mandate, beginning in 2015, large employers, including the County, must offer adequate and affordable medical insurance coverage to all full time employees (FTEs) as defined by the ACA. New IRS reporting rules and deadlines to demonstrate compliance with the ACA Employer Mandate are effective in January 2016, for medical insurance coverage provided in 2015. Buck will provide administrative services to support the County's timely compliance with the new ACA Employer Mandate reporting rules.

Justification

As the County's current third party administrator (TPA) of the County's medical benefit plans, under the Contract, Buck already maintains most of the employee data needed to comply with the ACA Employer Mandate. For compliance purposes, the County will require Buck to determine the FTE status of individual County employees by tracking each employee's hours worked and medical benefit plan enrollment on a monthly basis. Using Buck's existing TPA database and additional payroll data from the County's Auditor-Controller, Buck will produce and deliver the mandated new IRS forms in January 2016 and IRS transmittal forms in March 2016.

By engaging Buck to perform these services, the County will not incur costs and avoid delays in obtaining services resulting from the time necessary to complete a solicitation and review process. Any delays in obtaining services may subject the County to substantial risk of federal tax assessments or penalties if the County is not in a position to demonstrate plan year 2015 compliance with IRS Code Sections 6055 and 6056 by January 31, 2016.

The Department of Human Resources (DHR/Department), in consultation with the Chief Executive Office (CEO) and Office of the Auditor-Controller, concluded that the County did not have the resources or expertise in-house to fulfill the new IRS reporting requirements, and that the services should be performed by Buck.

Implementation of Strategic Plan Goals

The services provided under this amendment support the County's Strategic Plan, Goal 1, Operational Effectiveness/Fiscal Sustainability by enabling the County to timely comply with the ACA Employer Mandate and avoid potentially significant federal tax penalties.

FISCAL IMPACT/FINANCING

Buck will provide ACA Employer Mandate services for a total sum of \$451,330, which is comprised of (i) \$410,300 allocated for ACA Employer Mandate start up services and ACA Employer Mandate

administrative services under this Amendment Number Nine; and (ii) a 10% contingency allowance of \$41,030. These costs are being incurred under two separate contracts.

Pursuant to a delegated authority under professional services Contract Number 77474, Buck has provided start-up ACA Employer Mandate services for \$27,000. With the approval of this Amendment Number Nine to the Contract, Buck will provide ACA Employer Mandate services for \$383,300 as described herein.

Funding for the services provided during Fiscal Year (FY) 2015-16 are included in DHR's FY 2015-16 Adopted Budget. DHR will include funding for services to be provided through the remaining term of this contract and the contingency allowance during the FY 2016-17 budget process.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

In August 2003, following a competitive bid process, the Department contracted with Buck for TPA services. Your Board approved subsequent amendments to the Contract between December 2003 and March 2011 that included extending the Contract term through December 2011 with two one-year option extensions through December 2013. The first year optional extension was exercised extending the Contract term through December 2012. In June 2011, your Board approved an amended and restated Contract to add a Countywide Absence Management System (AMS) and extended the Contract term through its current December 31, 2016 termination date.

Approval to amend the Contract to include the ACA compliance services will ensure that IRS reporting requirements are met for the 2015 plan year and that compliance will be tracked during the 2016 plan year.

Buck is in compliance with all Board and CEO requirements.

The department has evaluated and determined that the Living Wage Program (County Code Chapter 2.201) does not apply to the recommended Agreement.

County Counsel has approved this Amendment Number Nine (Attachment I) as to form.

CONTRACTING PROCESS

In accordance with your Board's contracting policy requirements for sole source contracts, DHR notified your Board on March 2, 2015 of its intent to enter into sole source negotiations with Buck for the implementation of the ACA Employer Mandate Services. Attached is a copy of the March 2, 2015 notification to your Board of DHR's intent to enter into sole source contract negotiations with Buck (Attachment II) and a sole source contract checklist (Attachment III), approved by the CEO on February 27, 2015, which describes in detail the justification for sole source contracting with Buck for the ACA Employer Mandate Services.

Due to the urgency of this regulatory compliance project, DHR recommends your Board amend the existing Contract with Buck for Administrative Services and Absence Management Services to include the ACA Employer Mandate Services.

Since February 2015, DHR, in consultation with County Counsel and the Chief Executive Office -

Risk Management Branch, has been involved in lengthy negotiations with Buck with respect to this Amendment Number Nine to Contract Number 74576 and its associated Statement of Work. In July 2015, DHR determined it was in the best interest of the County to authorize Buck to begin certain necessary implementation and start-up services for the project in order to ensure that the County is in compliance with IRS regulations beginning in January 2016. These services were performed under Work Order Number 2, under Contract Number 77474, which authorizes the Director of Personnel to commission compensation and benefit consulting services with Buck for "special project consulting on various employee benefit issues," including advice and commentary on regulatory changes, on short notice, if necessary, with quick turnaround. In addition, the amounts spent under that Work Order are included in the referenced Total Contract Sum of this Amendment Number Nine to the Contract.

There were protracted negotiations regarding the indemnification provisions of the Contract. The indemnification provision has been amended to add indemnification of the County by Buck for the ACA Employer Mandate Services, which clarifies that any IRS penalties for failure to comply with the ACA Employer Mandate reporting requirements, other than those resulting solely from the County's decisions or direction, will be considered direct damages subject to Buck's indemnification obligations under the Contract for up to an amount equal to two (2) times the amount of the Maximum Contract Sum of \$26,354,300 payable for the period from July 1, 2011 through December 31, 2016. DHR believes that as a result of IRS non compliance penalties triggering Buck's indemnification obligations under the Contract, the County is sufficiently indemnified against any such potential IRS-imposed assessments resulting from Buck's failure to meet its contractual obligations.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

Approval of the recommended actions will allow the County to timely comply with the ACA Employer Mandate and associated new reporting requirements of the IRS.

The Honorable Board of Supervisors

11/17/2015

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Respectfully submitted, LISA M. GARRETT,
Director of Personnel

A handwritten signature in cursive script, appearing to read "Lisa M. Garrett".

LISA M. GARRETT

Director of Personnel

LMG:EP:PAMEMC:

RU:ss

Enclosures

c: Chief Executive Office
County Counsel
Executive Office, Board of Supervisors
Auditor-Controller

AMENDMENT NUMBER NINE**TO****CONTRACT NUMBER 74576****BETWEEN COUNTY OF LOS ANGELES AND****BUCK CONSULTANTS, LLC****FOR****ADMINISTRATIVE SERVICES FOR CAFETERIA AND NON-CAFETERIA
BENEFIT PLANS AND ABSENCE MANAGEMENT SERVICES**

THIS AMENDMENT NUMBER NINE is made and entered into this ____ day of _____, 2015 by and between the County of Los Angeles, a political subdivision of the State of California (hereinafter referred to as "County"), and Xerox Business Services, LLC (f/k/a Affiliated Computer Services, Inc. ("ACS")) and Buck Consultants, LLC (cumulatively, and jointly and severally, "Contractor") and amends that certain Contract Number 74576, dated August 12, 2003, for administrative services for cafeteria and non-cafeteria benefit plans ("Benefit Plan Services"), as modified by all Amendments and Change Notices thereto, including without limitation by this Amendment Number Nine (hereinafter "Contract").

WHEREAS, on August 12, 2003, County and Contractor entered into the Contract for the provision of Benefit Plan Services; and

WHEREAS, on December 16, 2003, County and Contractor amended the Contract for Contractor to provide additional recordkeeping services ("Amendment One"); and

WHEREAS, on April 18, 2004, County and Contractor amended the Contract to comply with the Security Rule of the Health Insurance Portability and Accountability Act of 1996 ("Amendment Two"); and

WHEREAS, on February 5, 2007 County and Contractor amended the Contract for Contractor to provide additional recordkeeping services ("Amendment Three"); and

WHEREAS, on May 6, 2008, County and Contractor amended the Contract to extend the Contract term through December 31, 2011 with the option to extend the Contract term for two additional one-year periods for a maximum total extension through December 31, 2013 ("Amendment Four"); and

WHEREAS, Xerox Business Services, LLC (f/k/a Affiliated Computer Services, Inc.) ("ACS") and its subsidiaries, including Buck Consultants LLC (Buck) were acquired by Xerox Corporation on February 8, 2010; and

WHEREAS, on June 4, 2010, County and Contractor amended the Contract to comply with the requirements of the Health Information Technology for Economic and Clinical Health Act ("Amendment Five"); and

WHEREAS, on December 22, 2010, County and Contractor amended the Contract to exercise their option to extend the Contract term for one (1) additional year, through December 31, 2012 ("Amendment Six"); and

WHEREAS, on March 16, 2011, County and Contractor amended the Contract to allow Contractor to provide additional administrative and recordkeeping services ("Amendment Seven"); and

WHEREAS, on June 28, 2011, County and Contractor amended and restated the Contract to add a new web-based Countywide absence management system ("Absence Management Services") and extend the Contract term for a period of three (3) years from January 1, 2014 through December 31, 2016; and

WHEREAS, on October 17, 2013, County and Contractor amended the Contract to comply with the requirements of the final regulations pertaining to Privacy, Security, Breach Notification, and Enforcement under the Health Insurance Portability and Insurance Portability and Accountability Act of 1996 ("Amendment Eight"); and

WHEREAS, on August 28, 2015, Work Order # 2 was issued under Contract # 77474 between the Contractor and the County for Affordable Care Act ("ACA") Employer Mandate Tracking and Reporting start-up services, and shall be included as part of this Amendment Nine for all purposes; and

WHEREAS, County now desires to comply with the new Federal reporting rules, beginning in January 2016, under the employer and employee mandates of the ACA and associated sections of the Internal Revenue Code ("IRC"); and

WHEREAS, Contractor in its administration of Benefit Plan Services and Absence Management Services has demonstrated the capability and capacity to administer such employer mandate tracking and reporting services; and

WHEREAS, County and Contractor desire to amend the Contract to add ACA employer mandate tracking and reporting services ("ACA Employer Mandate Tracking and Reporting Services"), to increase the Contract Sum accordingly, and to update and add to the Contract the most current County required and other applicable provisions; and

WHEREAS, Subparagraphs 4.1, 4.3, and 4.4 of Paragraph 4.0 (Changes and Amendments) of the Contract provide that for such changes, an amendment to the Contract shall be prepared and executed by the County and Contractor; and

NOW THEREFORE, in consideration of the foregoing, mutual promises, covenants and conditions set forth herein, and pursuant to Paragraph 4.0 (Change Notices and Amendments) of the Contract, County and Contractor hereby agree to amend the Contract as follows:

- I. Pursuant to Paragraph 4.0 (Changes and Amendments), Subparagraphs 4.1 and 4.4 of the Contract shall be amended to read as follows:**
 - A. Commencing upon the effective date of this Amendment Number Nine, "Contractor" for purposes of the Contract shall be Xerox Business Services, LLC and Buck Consultants, LLC.**
 - B. The cross references to Exhibits A and B in Paragraph 1.0 (Applicable Documents) shall be amended to read as follows:**

1.0 APPLICABLE DOCUMENTS

- Exhibit A shall include Exhibits A.1, A.2, and A.3 as follows:
 - Exhibit A.1 – Statement of Work (Benefit Plan Services)
 - Exhibit A.2 – Statement of Work (Absence Management Services)
 - Exhibit A.3 – Statement of Work (ACA Employer Mandate Tracking and Reporting Services)
- Exhibit B Fee Schedule for Benefit Plan Services, Absence Management Services, and ACA Employer Mandate Tracking and Reporting Services
- Exhibit J – Information Security Requirements

C. Section 2.0 – Definitions, Subsections 2.14 and 2.16 of the Contract shall be amended to read as follows, and new Sections 2.17 and 2.18 shall be inserted as follows:

- 2.14 “Security Guidelines” shall mean all applicable County information technology and information technology security policies included in Chapter 3 (including County policy 3.040) and Chapter 6 of County’s Policy Manual, which can be accessed at <http://countypolicy.co.la.ca.us/>, and in Exhibit J (Information Security Requirements).
- 2.16 “Total Services” shall mean collectively the Benefit Plan Services, the Absence Management Services, and the Affordable Care Act Employer Mandate Tracking and Reporting Services.
- 2.17 “Statement of Work” (“SOW”) shall refer to the tasks, deliverables, services, and other work required under this Contract, as set forth in Exhibit A.1 Statement of Work (Benefit Plan Services), Exhibit A.2 Statement of Work (Absence Management Services), and Exhibit A.3 Statement of Work (ACA Employer Mandate Tracking and Reporting Services).
- 2.18 The Affordable Care Act (“ACA”) refers to the Patient Protection and Affordable Care Act of 2010.

D. Paragraph 3.0 (Work) of the Contract shall be amended to read as follows:

3.0 WORK

- 3.1 Pursuant to the provisions of this Contract, Contractor shall fully perform, complete and deliver on time, all tasks, deliverables, services and other work as set forth in the Statement of Work, as it may be amended from time to time in accordance with Paragraph 4.0 (Changes and Amendments).

3.2 All such tasks, deliverables, services and other work required under this Contract, as set forth in the Statement of Work, shall be approved in writing by County's Project Manager prior to any submission of an invoice or payment therefor. County's Project Manager shall endeavor to approve or disapprove, or request from Contractor supplemental information, in accordance with the timelines set forth in the Statement of Work, which unless specified therein shall not be longer than fifteen (15) days. Any disapproval shall include reasonable detail regarding necessary corrective action.

3.3 Contractor agrees that the performance of work and services pursuant to the requirements of this Contract shall conform to high professional standards as exist in Contractor's profession or field of practice.

E. Subparagraph 4.2 of Paragraph 4.0 (Changes and Amendments) of the Contract shall be amended and replaced to read as follows:

4.2 For any change which does not affect the scope of work, term, Contract Payment, or any term or condition included under this Contract, a Change Notice shall be prepared and executed by County's Contract Administrator (CCA) and Contractor; except that:

4.2.1 Subject to Subparagraph 4.3 below, DOP is expressly authorized to change the specific conditions as set forth in the Statement of Work via a Change Notice.

F. Subparagraph 8.1 of Paragraph 8.0 (Contract Sum) of the Contract shall be amended and replaced to read as follows:

8.1 The Maximum Contract Sum under the term of this Contract shall be the total monetary amount payable by County to Contractor for provision of services specified herein in accordance with Exhibit B (Fee Schedule), and shall not exceed \$49,434,200 for the term of the Contract, including an estimated 3% Cost of Living Adjustment (COLA) for each year for the Benefit Plan Services. In addition, Contractor acknowledges that the amounts payable by County to Contractor on a monthly basis for the Benefit Plan Services are based on County's actual number of users in the Benefit Plan Services in the applicable month multiplied by the applicable unit rates as set forth on Exhibit B (Fee Schedule) for the applicable Contract Year. Contractor expressly acknowledges and agrees, however, that, in no event is County obligated to pay any amount in excess of the Maximum Contract Sum per Contract Year for the Benefit Plan Services, Absence Management Services, and ACA Employer Mandate Tracking and Reporting Services respectively, as set forth on Exhibit B (Fee Schedule).

G. Subparagraphs 8.5.1 and 8.5.3 of Paragraph 8.5 (Invoices and

Payments) of the Contract shall be amended and replaced to read as follows:

- 8.5.1 Contractor shall invoice County only for providing the tasks, deliverables, goods, services, and other work specified in the Statement of Work and elsewhere hereunder. Contractor shall prepare invoices, which shall include the charges owed to Contractor by County under the terms of this Contract. Contractor's payments shall be as provided in Exhibit B (Fee Schedule).
- 8.5.3 Contractor's invoices shall contain the information set forth in the Statement of Work, describing the tasks, deliverables, goods, services, work hours, and facility and/or other work for which payment is claimed.

H. Paragraph 10.0 (Gratuitous Work) of the Contract shall be amended and replaced to read as follows:

Contractor agrees that should work or services, other than the Total Services set forth in the Statement of Work, be performed without the prior written modification of this Contract in accordance with Paragraph 4.0 (Changes and Amendments), they are deemed gratuitous and Contractor shall have no claim therefore.

I. Subparagraphs 27.1.1 and 27.1.2 of Paragraph 27.0 (Warranties, Indemnification, Limitation of Liability) of the Contract shall be amended and replaced to read as follows:

- 27.1.1 Contractor represents and warrants that (a) Contractor has the full power and authority to grant the License (as defined in Paragraph 45.1) and all other rights granted by the Contract to County, (b) no consent of any other person or entity is required by Contractor to grant such rights other than consents that have been obtained and are in effect, (c) County is entitled to use and access the services provided hereunder without interruption of system use, except as for permitted downtime for maintenance services as set forth in the Statement of Work, (d) the Contract and the intellectual property rights licensed herein, are neither subject to any liens, encumbrances, or pledges nor subordinate to any right or claim of any third party, including Contractor's creditors, (e) during the Term, Contractor shall not subordinate the Contract or any of its rights hereunder to any third party without the prior written consent of County, and without providing in such subordination instrument for non-disturbance of County's use and access of all the services provided hereunder, and (f) neither the performance of the Contract by Contractor, nor the license to, and use by, County and its users of the system and services provided hereunder in accordance with the Contract will in any way violate any non-disclosure agreement, nor, to the best of

Contractor's knowledge, constitute any infringement or other violation of any copyright, trade secret, trademark, service mark, proprietary information, or other intellectual property rights (excluding patent) of any third party.

27.1.2 Contractor shall, in the performance of all work strictly comply with the descriptions and representations (including documentation requirements, performance capabilities, accuracy, completeness, characteristics, specifications, configurations, standards, functions and requirements) as set forth in the Contract, including without limitation the Total Services set forth in the Statement of Work, and the systems and services provided hereunder shall perform in accordance with such descriptions and representations.

J. Subparagraph 27.3.4 of Paragraph 27.0 (Warranties, Indemnification, Limitation of Liability) of the Contract shall be amended and replaced to read as follows:

27.3.4 Damage Limitation. Except with respect to (a) claims arising from Contractor's, including without limitation its employees', directors', officers', agents', subsidiaries', and Subcontractors', willful misconduct, (b) third party claims subject to indemnification under this Contract, and (c) third party claims arising under Paragraph 46.0 (Patent, Copyright and Trade Secret Indemnification), in no case shall Contractor's liability under this Contract exceed an amount equal to two times the amount of the Maximum Contract Sum payable for the period from July 1, 2011 through December 31, 2016, as referenced in the summary of fees set forth on Exhibit B (Fee Schedule). The parties acknowledge that Contractor has set its prices and entered into this Contract in reliance upon the limitations of liability and disclaimer of warranties, and damages set forth in this Contract and that the same form an essential basis of the bargain between the parties. For the avoidance of doubt and purposes of this Contract, any IRS assessments against County for non-compliance with IRS requirements relating to Contractor's provision of work under Exhibit A.3 (Statement of Work – Affordable Care Act Employer Mandate Tracking and Reporting Services), other than those resulting solely from County's decisions or direction (“IRS Penalties”), shall be deemed "direct" damages and not “third party claims”, and IRS Penalties will be subject to the limit of direct damages set forth in this Subparagraph 27.3.4 of the Contract. In the case of IRS Penalties, the PRS amounts set forth in Appendix 1 to Exhibit A.3 (Statement of Work – Affordable Care Act Employer Mandate Tracking and Reporting Services) that coincide with potential IRS Penalties will represent the first recourse. Any amounts above the PRS limits with respect to IRS Penalties will be subject to this Subparagraph 27.3.4.

- K. Paragraph 29.0 (Insurance Coverage Requirements) of the Contract shall be amended to add the following Subparagraph:**

29.6 Privacy/Network Security (Cyber) Insurance

Insurance coverage providing protection against liability for: (1) privacy breach (liability arising from the loss or disclosure of confidential information); (2) system breach; (3) denial or loss of service; (4) introduction, implantation, or spread of malicious software code; and (5) unauthorized access to or use of computer systems, with limits of not less than ten million dollars (\$10,000,000). No exclusion/restriction for unencrypted portable devices/media may be on the policy.

- L. Paragraph 70.0 (Time Off for Voting) shall be added to the Contract to read as follows:**

70.0 TIME OFF FOR VOTING

Contractor shall notify its employees, and shall require each subcontractor to notify and provide to its employees, information regarding the time off for voting law (Elections Code Section 14000). Not less than 10 days before every statewide election, every Contractor and subcontractors shall keep posted conspicuously at the place of work, if practicable, or elsewhere where it can be seen as employees come or go to their place of work, a notice setting forth the provisions of Section 14000.

- M. Exhibit A.3 (Statement of Work for ACA Employer Mandate Tracking and Reporting Services) shall be added to the Contract as attached hereto.**
- N. Exhibit B (Fee Schedule) shall be deleted and replaced with the attached Exhibit B (Fee Schedule).**
- O. Exhibit J (Information Security Requirements) shall be added to the Contract as attached hereto.**
- II. Contractor represents and warrants that the person executing this Amendment Number Nine on behalf of Contractor is an authorized agent who has the actual authority to bind Contractor to each and every term, condition and obligation of this Amendment Number Nine.**
- III. Except as provided in this Amendment Number Nine, all other terms and conditions of the Contract shall remain unchanged and in full force in effect.**

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IN WITNESS WHEREOF, County and Contractor by their duly authorized signatures have caused this Amendment Number Nine to County Contract Number 74576 to be effective on the day, month and year first above written.

**COUNTY OF LOS ANGELES:
DEPARTMENT OF HUMAN RESOURCES**

By _____
Lisa M. Garrett
Director of Personnel

**CONTRACTOR:
Xerox Business Services, LLC
Buck Consultants, LLC**

By _____
Signature

Print Name

Title

APPROVED AS TO FORM:
Mary C. Wickham
Interim County Counsel

By _____
Victoria Mansourian
Principal Deputy County Counsel

EXHIBIT A.3

STATEMENT OF WORK

AFFORDABLE CARE ACT EMPLOYER MANDATE TRACKING AND REPORTING SERVICES

STATEMENT OF WORK

1.0 SCOPE OF WORK

The scope of work encompasses services needed to meet the mandates under the Patient Protection and Affordable Care Act of 2010 (“ACA”) to determine full-time employee (“FTE”) status, track measurement periods and stability periods, and issue Internal Revenue Service (“IRS”) forms to individual employees and to the IRS.

This Exhibit A.3 includes Appendices, with summarized descriptions as follows:

Appendix 1 to Exhibit A.3, Performance Requirements Summary: This appendix lists the required services which shall be monitored by the County Project Manager, the performance standards of the services, and the liquidated damages for not meeting the standards.

Appendix 2 to Exhibit A.3, Contractor’s Schedule: This appendix lists the dates by which services shall be completed by the Contractor.

2.0 DEFINITIONS

Capitalized terms used in this Exhibit A.3 without definition have the meanings given to such terms in the base document of the Contract. As used in this Exhibit A.3, the following capitalized terms have the following meanings:

- **Acceptable Quality Level (“AQL”):** A measure to express the allowable leeway or variance from a standard before DHR will make a finding that the Contractor is not in compliance with a specific contract provision.
- **Affordability:** Within the meaning of the ACA, if an employee’s share of the premium for employer provided coverage is equal to or less than 9.5% of that employee’s annual household income, then the coverage is considered affordable. The ACA offers three “Safe Harbors” that employers can use to determine affordability: 1) “the Federal Poverty Line Safe Harbor”, 2) “the W-2 Safe Harbor”, or 3) “the Pay Rate Safe Harbor”.
- **Business Requirements Document (“BRD”):** The Business Requirements Document that Contractor shall complete defining the specific responsibilities of the Contractor and the County, the specific data to be used by the Contractor, its sources and the business rules for its use. It shall also specify all deliverables and the schedule for all aspects of the engagement.
- **Consolidated Omnibus Budget Reconciliation Act of 1985 (“COBRA”):** Provides continuation coverage to employees and their dependents when they lose coverage due to loss of employment and loss of eligibility.
- **COBRA Data Business Requirements Document (“COBRA Data BRD”):** Captures the file specifications for the COBRA data file.

- **Data File:** An electronic file in XML, Comma-delimited, Excel or similar format that contains records of employee hours worked, leave dates, medical carrier, dependents and other demographic information to allow for tracking and reporting for ACA purposes.
- **Employer Identification Number (“EIN”):** Known as the Federal Tax Identification number issued to an employer by the IRS.
- **E-Registration:** Process to establish an account with the Internal Revenue Service to transmit ACA Information Return data.
- **Extensible Markup Language (“XML”):** A markup language that defines a set of rules for encoding documents in a format, which is both human-readable and machine-readable.
- **Full-Time Employee (“FTE”):** Within the meaning of ACA, Full-Time Employees are those that work an average of 30 service hours per week or more. The method to derive the average depends on the measurement method the employer uses, either “monthly” or “look back” both defined below.
- **Full-Time Employee Business Requirements Document (“FTE BRD”):** Captures the configuration parameters required to setup the Look-Back Measurement Method calculation for the County.
- **HealthAct Participant Portal:** Contractor’s proprietary ACA Employer Mandate Tracking and Reporting Services Portal.
- **HealthAct Compliance Solution (“HCS”):** Contractor’s proprietary ACA System for full-time employee status determination using the Look-Back Measurement Method and supporting ACA reporting requirements, as per IRC 6055 and 6056.
- **Hours Data Business Requirements Document (“Hours Data BRD”):** Captures the file specifications for the hours data file.
- **Internal Revenue Service (“IRS”):** Federal agency responsible for administering and enforcing all internal revenue laws of the United States.
- **Internal Revenue Service Reporting Business Requirements Document (“IRS Reporting BRD”):** Documents business requirements concerning the County’s use of the Look-Back Measurement Method, the affordability of its medical plans, choice of applicable safe harbor provisions, printing and fulfillment options and more.
- **IRS Form 1094-B (“Form 1094-B”):** Transmittal of Health Coverage Information Return. This transmittal form is included in the ACA information return file for Form 1095-B and must be filed with the IRS by March 31 each year for the previous Tax Year.
- **IRS Form 1094-C (“Form 1094-C”):** Transmittal of Employer-Provided Health Insurance Offer and Coverage Information Return. This transmittal form is included in the ACA information return file for Forms 1095-C and must be filed with the IRS by March 31 each year for the previous Tax Year.

- **IRS Form 1095-B (“Form 1095-B”):** This form provides proof of minimum essential coverage in a medical plan for each covered month during a Tax Year for an employee and his or her dependents. It is provided by a medical provider/insurance company or self-insured employer to all employees by January 31 each year for the previous Tax Year. This form is tied to the enforcement of the ACA’s Individual Insurance Mandate.
- **IRS Form 1095-C (“Form 1095-C”):** This form shows the type of coverage offered to an FTE, whether the employee accepted the coverage offered, the FTE’s share of the cost, and the applicable affordability Pay Rate Safe Harbor for each month in a Tax Year. It is provided by the employer to all FTEs by January 31 each year for the previous Tax Year. This form is tied to the enforcement of the ACA’s Employer Mandate provisions.
- **Long Term Disability Health Survivor (“LTD Health Survivor”):** An employee who is currently receiving County sponsored long-term disability health insurance benefits.
- **Look-Back Measurement Method:** One of the ACA-acceptable measurement methods to determine the FTE status of employees, the Look-Back Measurement Method averages the service hours credited over a specific measurement period to determine if the employee averaged 30 or more service hours a week. The most common duration of look-back period is one year.
- **Measurement Period:** The time period an employer uses to determine whether an employee is an FTE and qualifies for an offer of coverage.
- **Medical Coverage:** An insurance policy or membership in a staff-model medical provider that meets the minimum essential coverage standards in the ACA.
- **Part-Time Employee (“PT EE”):** Within the meaning of the ACA, employees are part time if they work an average of fewer than 30 hours per week – calculated with the Look-Back Method.
- **Patient Protection and Affordable Care Act of 2010 (“ACA”):** The ACA mandates employers with 50 or more full-time equivalent employees to offer affordable minimum essential coverage to at least 95% of full-time employees (70% for 2015) and mandates nearly all Americans to carry minimum essential coverage. The ACA provides subsidies to help individuals and families purchase coverage and is enforced by a series of assessments. New tax documents have been established to verify compliance with the ACA by individuals and employers.
- **Pay-Rate Safe Harbor:** Within the meaning of the ACA, a safe harbor method used to determine if an employer’s offer of insurance is affordable for an individual employee. For a non-hourly employee, the monthly employee cost for the lowest cost medical plan must not exceed 9.5 percent of the employee’s monthly pay as measured on the first day of the plan year. If the employee cost exceeds the 9.5 percent limit, the employer is liable for an assessment should the employee purchase subsidized coverage on an exchange. This safe harbor can only be used provided the monthly rate of pay is not reduced during the year.
- **Performance Requirements Summary (“PRS”) Chart:** This chart identifies the key performance indicators of the Contract that will be evaluated by the County to assure the Contractor meets the Contract performance standards.

- **Portal:** This website, provided by the Contractor, and available as a link from mylaCountybenefits.com, allows County employees to download duplicate Form 1095-C and Form 1095-B and provides password-protected administrative access to reports and employee FTE status.
- **Stability Period:** The period during which an employee's status is either full-time or not full-time regardless of actual service hours earned during the stability period. The most common period is one year.
- **Tax Year:** January 1 through December 31 each year.
- **Transmitter Control Code ("TCC"):** A unique five-digit identifier provided by the IRS to be used when filing documents online.
- **Work Order:** That certain Work Order #2 for Affordable Care Act Employer Mandate Tracking and Reporting start-up services, dated August 28, 2015, between the Contractor and the County, issued under Agreement # 77474.

3.0 **TASKS**

Each task shall be completed to the County's satisfaction. Notwithstanding anything to the contrary herein, Contractor shall in all respects, fully comply with all mandated IRS requirements relating to its provision of ACA Employer Mandate Tracking and Reporting Services ("ACA Mandate"). In the event, subsequent to the effective date of Amendment Number 9 to the Contract, a substantial change in IRS requirements necessitates Contractor to perform substantial additional work, unique to the County (as opposed to any of Contractor's other customers) in order to reach compliance with such changes to the ACA Mandate, County and Contractor may mutually agree to a change order in the form of a Change Notice executed pursuant to Subparagraph 4.2 under Paragraph 4.0 (Changes and Amendments) of the body of the Contract up to ten percent (10%) of all fees paid for Contractor's provision of work relating to the ACA Mandate pursuant to Exhibit A.3 (Statement of Work – ACA Employer Mandate Tracking and Reporting Services) under the Contract. County shall notify Contractor, in writing, of problems encountered which, if not corrected within a satisfactory period, may result in cancellation of the project and termination of this Contract.

3.1 **Work Order**

Contractor has performed start-up services pursuant to the Work Order, which start-up services are hereby deemed for all purposes to be part of this Exhibit A.3 and this Contract.

3.2 **Hours Tracking and FTE determination**

Contractor shall configure the HCS System for the Look-Back Measurement Method. Changes or modifications shall be made in accordance with Section 4.1 of the Contract.

Contractor shall configure its system platform for the Look-Back Measurement Method in accordance with IRS regulations and the FTE BRD.

3.3 **Business Requirements Document**

Contractor shall configure the County's data on its system platform. The configuration shall be based on the Business Requirements Documents to be completed by the Contractor with assistance and cooperation from the County, based on a mutually agreed to timeframe.

3.3.1 Contractor shall perform the affordability calculation as described and mutually agreed upon in the IRS Reporting BRD

3.4 Data File Requirements

Contractor shall work with the County to determine data file requirements for the hours worked file and sources of the data. Data shall be extracted from the County's benefits enrollment system and from sources identified during implementation of the project.

3.5 Ongoing Monthly Reporting

3.5.1 Contractor shall upload monthly files from sources identified in accordance with the above Subsection 3.4 of this Exhibit A.3.

3.5.2 Contractor shall perform the calculations required for the FTE determination.

3.5.3 Contractor shall perform a thorough review and validation process of the above calculations in accordance with the above Subsection 3.2 of this Exhibit A.3.

3.5.4 Contractor shall track the number of hours submitted by the County, for the purposes of FTE determination and compliance, which shall be available to the County through the Portal.

3.6 IRS Form Data File

Contractor shall configure and test the IRS data file creation process for Employer Identification Number (EIN). This includes reporting counts, provided by the County, for each EIN data set file for creation of Form 1094-C and Form 1094-B.

3.7 Form 1094-B and Form 1094-C Transmittal and Registration

Contractor shall configure its system platform and test the transmittal forms, Form 1094-B and Form 1094-C in accordance with IRS specifications.

Contractor shall review and validate options on its system platform, load test data, generate test ACA Information Return XML files and validate the accuracy of the files and as accepted by the County.

3.8 IRS Transmittal E-Registration

Contractor shall follow the IRS defined process for completing the IRS e-services registration on the IRS website, obtaining login credentials from the IRS, and logging in within 28 days to confirm registration and activate the account within the deadlines established by the IRS.

Contractor shall complete the TCC application and receive the TCC in the mail.

3.9 Form 1095-C and Form 1095-B Data File Creation

Contractor shall generate a XML file with Form 1095-C or Form 1095-B data, in accordance with IRS specifications.

Contractor shall work with the County to resolve any error files within deadlines established by the IRS.

3.10 IRS Forms 1094-C and Form 1094-B

Contractor shall enter all appropriate data, provided by the County, into its system platform.

Contractor shall timely and accurately complete and transmit Form 1094-C or Form 1094-B with IRS required data to the IRS within the deadlines established by the IRS.

3.11 IRS Transmittal

3.11.1 Contractor shall accurately upload to the IRS within the deadlines established by the IRS:

- Form 1094-C and Form 1095-C data files for 2015, and
- Form 1094-B and Form 1095-B data files for 2015 for individuals who were inactive for the entire year (e.g. COBRA, retirees, elevated dependents, surviving spouses and their dependents).

3.11.2 Contractor shall ensure receipt of transmission status from the IRS site indicating whether the transmittal is in process, accepted, accepted with errors, or rejected.

3.11.3 Contractor shall work with the County to correct any errors or rejections as required by the IRS and within IRS guidelines.

3.12 IRS Forms 1095-B and 1095-C

Contractor shall accurately generate Form 1095-C showing status of employer-offered medical coverage for each month of the year, and Form 1095-B for self-insured plans, showing status of employee and dependent enrollments in medical coverage for each month of the 2015 plan year, in accordance with the ACA reporting requirements, and post them as electronic files on the Portal in accordance with the participant portal BRD.

3.12.1 Contractor shall generate one statement per individual County employee per EIN, with the exception of any statements generated by medical plans.

3.12.2 Contractor shall mail individual statements to employees by the deadline required by the IRS.

3.12.3 Contractor shall invoice the County for postage costs.

3.13 Performance Requirements Summary

Contractor shall develop a performance standards document ("Performance Standards Document") incorporating all the information, including performance requirements and credits, set forth in *Appendix 1, Performance Requirements Summary*. The Performance Standards Document shall outline processes for sustainability of standard services, including the ongoing quality monitoring methods to evaluate the internal performance in meeting the Contract requirements.

In the event that Contractor fails to meet the performance requirements set forth in *Appendix 1, Performance Requirements Summary*, County shall be entitled to receive credits, as set forth in *Appendix 1, Performance Requirements Summary*, which may be applied, at the discretion of County's Project Manager, to any amounts payable by County to Contractor under this Contract. Notwithstanding anything to the contrary in the Contract, any credits that accrue are in addition to, and do not limit, any other rights and remedies available to County, either pursuant to this Contract, at law, or in equity, in respect of Contractor's failure to perform in accordance with the terms of this Contract.

3.14 Project Meetings

County and Contractor shall participate in project meetings as needed.

4.0 COUNTY PROVIDED DATA

County will furnish Contractor:

- 4.1 The demographic data furnished under the Contract;
- 4.2 The indicative and hours data files as described and mutually agreed upon in the Hours Data BRD; and
- 4.3 Enrollment data for COBRA participants and LTD Health Survivors for Self-Insured plans as described and mutually agreed upon in the COBRA Data BRD

Appendix 1 to Exhibit A.3

Performance Requirements Summary Affordable Care Act Employer Mandate Tracking and Reporting Services

PERFORMANCE REQUIREMENTS SUMMARY (PRS) CHART

The obligations set forth below are not in lieu of, and do not limit, any of County's rights and remedies, including but not limited to termination for default pursuant to Paragraph 32.0 (Termination for Default) of the Contract. Performance results will be measured and reported on a quarterly basis during the regularly scheduled project meetings.

Performance measures contained in this document apply to services that are provided by Contractor. Notwithstanding the sum of the individual performance payments calculated, the maximum amount of credits assessed under this PRS in any quarter shall not exceed 15% of all the ongoing fees for such quarter tied to this SOW. Any credits shall be applied toward outstanding and/or current month fees.

#	SPECIFIC PERFORMANCE REFERENCE	STANDARD OF PERFORMANCE	MAXIMUM ALLOWED DEVIATION (AQL)	MONITORING METHOD	ASSESSMENTS FOR FAILURE TO COMPLY WITH PERFORMANCE REQUIREMENTS
1	Contract: Paragraph 6.0 – Administration of Contract – Contractor	Contractor shall inform DHR in writing of any change in names, addresses, and telephone numbers of the individuals designated to act as Contract Manager and alternate at the time the Contract is implemented and as changes occur during the term of the Contract.	None	Inspection and Observation	\$100 per occurrence.
2	Contract: Paragraph 31.0 – Subcontracting	Contractor shall obtain County's advance approval prior to subcontracting any work.	None	Inspection and Observation	\$100 per occurrence; without limiting any rights or remedies made under the Contract, including County's rights to terminate, County is not responsible for any payments owed to such third parties.
3	Contract: Paragraph 49.0 – Record Retention and Inspection / Audit Settlement	Contractor to maintain all required documents as specified in Paragraph 49.0.	None	Inspection of files	\$100 per occurrence.

APPENDIX 1 TO EXHIBIT A.3 – STATEMENT OF WORK
PRS – AFFORDABLE CARE ACT EMPLOYER MANDATE TRACKING AND REPORTING SERVICES

#	SPECIFIC PERFORMANCE REFERENCE	STANDARD OF PERFORMANCE	MAXIMUM ALLOWED DEVIATION (AQL)	MONITORING METHOD	ASSESSMENTS FOR FAILURE TO COMPLY WITH PERFORMANCE REQUIREMENTS
4	Exhibit A.3: Statement of Work: Subsection 3.6 – IRS Form Data File	Contractor shall configure and test the IRS data file creation process.	None	Inspection and Observation	\$1,000 for failure to configure and test the IRS data file.
5	Exhibit A.3: Statement of Work: Subsection 3.7 – Form 1094-B and Form 1094-C Transmittal and Registration	Contractor shall configure its system platform and test Form 1094-B and Form 1094-C, review and validate options on its system platform, load test data, generate test ACA Information Return XML files and validate the accuracy of the files.	None	Inspection and Observation	\$1,000 for failure to configure the system platform; \$1,000 additional for failure to test Form 1094-B and Form 1094-C; \$1,000 additional for failure to load test data and generate test ACA files and validate accuracy of files.
6	Exhibit A.3: Statement of Work: Subsection 3.8 – IRS Transmittal E-Registration	Contractor shall follow the IRS defined process for completing the IRS e-services registration on the IRS website, obtain login credentials from the IRS, and logging in within 28 days to confirm registration and activate the account within the deadlines established by the IRS. Contractor shall complete the TCC application and receive the TCC in the mail.	None	Inspection and Observation, and User Complaints	\$1,000 assessment for failure to follow the IRS e-services registration that results in failure to receive the TCC that causes a delay in IRS filings.
7	Exhibit A.3: Statement of Work: Subsection 3.9 – Form 1095-C and Form 1095-B Data File Creation	Contractor shall generate a XML file with Form 1095-C or Form 1095-B data, in accordance with IRS specifications. Contractor shall work with the County to resolve any error files within deadlines established by the IRS.	None	Inspection and Observation, and User Complaints	\$1,000 for each occurrence of incorrect method used; additional assessment for each day the file is generated after the due date.

APPENDIX 1 TO EXHIBIT A.3 – STATEMENT OF WORK
PRS – AFFORDABLE CARE ACT EMPLOYER MANDATE TRACKING AND REPORTING SERVICES

#	SPECIFIC PERFORMANCE REFERENCE	STANDARD OF PERFORMANCE	MAXIMUM ALLOWED DEVIATION (AQL)	MONITORING METHOD	ASSESSMENTS FOR FAILURE TO COMPLY WITH PERFORMANCE REQUIREMENTS
8	Exhibit A.3: Statement of Work: Subsection 3.12 – IRS Forms 1095-B and 1095-C	Contractor shall accurately generate Form 1095-C showing status of employer-offered medical coverage for each month of the year, and Form 1095-B for self-insured plans, showing status of employee and dependent enrollments in medical coverage for each month of the 2015 plan year, in accordance with the ACA reporting requirements, and post them as electronic files on the Portal by a mutually agreed upon date.	None	Inspection and Observation, and User Complaints	\$1000 per day assessment for failure to post forms on the participant Portal by a mutually agreed upon date.
9	Exhibit A.3: Statement of Work: Subsection 3.12.1 and 3.12.2 IRS Forms 1095-B and 1095-C	Contractor shall generate one statement per individual County employee per EIN within the guidelines and deadlines established by the IRS. Contractor shall mail individual statements to employees within the guidelines and deadlines established by the IRS.	None	Contractor Self Report	\$1000 per day that statements are not mailed by the guidelines and deadlines established by the IRS.

CONTRACTOR'S SCHEDULE

Client	County of Los Angeles	
Project Name	ACA Employer Mandate Tracking and Reporting Services	
Year	For Calendar Year 2015	For Calendar Year 2016
Date System ready for Report and Forms review	11/30/2015	N/A
Historical data files loaded and validated in preparation for January statement deadline	1/08/2016	N/A
Statements created and mailed to employees' home addresses (Form 1095-B and Form 1095-C)	1/31/2016	N/A
IRS data sets transmitted to IRS (Form 1094-B, Form 1094-C, Form 1095-B, and Form 1095-C)	3/31/2016	N/A

EXHIBIT B

FEE SCHEDULE

**Exhibit B
Fee Schedule**

SUMMARY OF FEES

Benefits Plans Services (January 1, 2012 through December 31, 2016)	\$ 21,794,000
Absence Management Services (January 1, 2012 through December 31, 2016)	\$ 2,250,000
Affordable Care Act Employer Mandate Tracking and Reporting start-up services (August 28, 2015 through December 31, 2015)	\$ 0 *
Affordable Care Act Employer Mandate Tracking and Reporting Services (effective date of Amendment Number Nine through December 31, 2016)	\$ 410,300
Benefits Plans Services (July 1, 2011 through December 31, 2011)	\$1,900,000
Total Fees Payable for Benefits Plans Services, Absence Management Services, and Affordable Care Act Employer Mandate Tracking and Reporting Services (July 1, 2011 through December 31, 2016)*	\$ 26,354,300
Total Fees Paid under original Contract (August 12, 2003 through June 30, 2011)	\$ 23,079,900
Maximum Contract Sum of this Contract (August 12, 2003 through December 31, 2016)	\$ 49,434,200

** Start-up services were performed and paid for under the Work Order and are subject to all warranties and other protections under this Contract.*

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**Benefits Plans and Absence Management Services
Summary of Annual Fees**

BENEFITS PLANS SERVICES (January 1, 2012 through December 31, 2016)

	January 1, 2012 - December 31, 2012	January 1, 2013 - December 31, 2013	January 1, 2014 - December 31, 2014	January 1, 2015 - December 31, 2015	January 1, 2016 - December 31, 2016	CONTRACT COSTS
Monthly Processing Fees	\$ 2,864,733.60	\$ 3,039,000	\$ 3,224,000	\$ 3,420,000	\$ 3,628,000	
Spending Account Administration	\$ 497,328.29	\$ 528,000	\$ 560,000	\$ 594,000	\$ 630,000	
Annual Enrollment	\$ 281,515.04	\$ 299,000	\$ 317,000	\$ 336,000	\$ 356,000	
Estimated Annual Costs	\$ 3,644,000	\$ 3,866,000	\$ 4,098,000	\$ 4,344,000	\$ 4,605,000	\$ 20,557,000
Maximum Annual Cap	\$ 3,753,000	\$ 3,979,000	\$ 4,217,000	\$ 4,471,000	\$ 4,739,000	\$ 21,159,000
Maximum Annual Contract Sum	\$ 3,866,000	\$ 4,098,000	\$ 4,344,000	\$ 4,605,000	\$ 4,881,000	\$ 21,794,000

MAXIMUM CONTRACT SUM FOR BENEFITS PLANS SERVICES

\$ 21,794,000

Maximum Annual Cap includes 3% annual volume cap

Maximum Annual Contract Sum includes 3% estimated COLA increase

ABSENCE MANAGEMENT SERVICES (January 1, 2012 through December 31, 2016)

	January 1, 2012 - December 31, 2012	January 1, 2013 - December 31, 2013	January 1, 2014 - December 31, 2014	January 1, 2015 - December 31, 2015	January 1, 2016 - December 31, 2016	CONTRACT COSTS
Implementation	\$ 117,000	\$ 117,000	\$ 117,000	\$ 117,000	\$ 117,000	
Ongoing	\$ 333,000	\$ 333,000	\$ 333,000	\$ 333,000	\$ 333,000	
Maximum Annual Contract Sum	\$ 450,000	\$ 450,000	\$ 450,000	\$ 450,000	\$ 450,000	\$ 2,250,000

MAXIMUM CONTRACT SUM FOR ABSENCE MANAGEMENT SERVICES

\$ 2,250,000

AFFORDABLE CARE ACT EMPLOYER MANDATE TRACKING AND REPORTING SERVICES (effective date of Amendment Number Nine through December 31, 2016)

	January 1, 2016 - December 31, 2016	CONTRACT COSTS
Ongoing	\$ 410,300	\$ 410,300
Maximum Annual Contract Sum	\$ 410,300	\$ 410,300

MAXIMUM CONTRACT SUM FOR AFFORDABLE CARE ACT EMPLOYER MANDATE, TRACKING, AND REPORTING SERVICES

\$ 410,300

BENEFITS PLANS SERVICES (JULY 1, 2011 THROUGH DECEMBER 31, 2011)

\$ 1,900,000

TOTAL FEES PAYABLE FOR BENEFITS PLANS SERVICES, ABSENCE MANAGEMENT SERVICES, AND AFFORDABLE CARE ACT MANDATE TRACKING AND REPORTING SERVICES (July 1, 2011 through December 31, 2016)

\$ 26,354,300

TOTAL FEES PAID UNDER ORIGINAL CONTRACT (August 12, 2003 through June 30, 2011)

TOTAL FEES PAID FROM AUGUST 12, 2003 THROUGH DECEMBER 31, 2010 **\$ 21,479,900**

TOTAL ESTIMATED FEES FROM JANUARY 1, 2011 THROUGH JUNE 30, 2011 **\$ 1,600,000**

MAXIMUM CONTRACT SUM OF THIS CONTRACT (August 12, 2003 through December 31, 2016)

\$ 49,434,200

BENEFIT PLANS SERVICES

Per Participant and Transaction Rates²

	<u>Assumed Volume</u>	January 1, 2012 - December 31, 2012	January 1, 2013 - December 31, 2013	January 1, 2014 - December 31, 2014	January 1, 2015 - December 31, 2015	January 1, 2016 - December 31, 2016	<u>Annual Total</u>	<u>Five-Year Total</u>
Monthly Processing Fees								
Flex/Megaflex	12,822	\$ 2.05	\$ 2.05	\$ 2.05	\$ 2.05	\$ 2.05	\$ 315,421	
Choices	35,191	\$ 2.15	\$ 2.15	\$ 2.15	\$ 2.15	\$ 2.15	\$ 907,928	
Options	48,565	\$ 2.15	\$ 2.15	\$ 2.15	\$ 2.15	\$ 2.15	\$ 1,252,977	
Temps/Part-time	2,907	\$ 2.15	\$ 2.15	\$ 2.15	\$ 2.15	\$ 2.15	\$ 75,001	
Employee Direct Pay Billing	1,925	\$ 4.97	\$ 4.97	\$ 4.97	\$ 4.97	\$ 4.97	\$ 114,807	
COBRA Notification	2,500	\$ 6.62	\$ 6.62	\$ 6.62	\$ 6.62	\$ 6.62	\$ 198,600	
HIPAA Certification	-	\$ 5.52	\$ 5.52	\$ 5.52	\$ 5.52	\$ 5.52	\$ -	
Subtotal							\$ 2,864,734	\$ 14,323,668
Monthly Spending Account Administration¹								
Flex/Megaflex (annual rates)	5,377	\$ 0.55	\$ 0.55	\$ 0.55	\$ 0.55	\$ 0.55	\$ 2,957	
Checks issued/mailed	3,585	\$ 3.42	\$ 3.42	\$ 3.42	\$ 3.42	\$ 3.42	\$ 147,115	
Choices (annual rates)	5,420	\$ 0.55	\$ 0.55	\$ 0.55	\$ 0.55	\$ 0.55	\$ 2,981	
Checks issued/mailed	3,613	\$ 3.42	\$ 3.42	\$ 3.42	\$ 3.42	\$ 3.42	\$ 148,291	
Options (annual rates)	7,022	\$ 0.55	\$ 0.55	\$ 0.55	\$ 0.55	\$ 0.55	\$ 3,862	
Checks issued/mailed	4,681	\$ 3.42	\$ 3.42	\$ 3.42	\$ 3.42	\$ 3.42	\$ 192,122	
Subtotal							\$ 497,328	\$ 2,486,641
Annual Enrollment¹								
Flex/Megaflex	12,822	\$ 0.78	\$ 0.78	\$ 0.78	\$ 0.78	\$ 0.78	\$ 10,001	
Choices	35,191	\$ 0.73	\$ 0.73	\$ 0.73	\$ 0.73	\$ 0.73	\$ 25,689	
Options	48,565	\$ 0.54	\$ 0.54	\$ 0.54	\$ 0.54	\$ 0.54	\$ 26,225	
Temps/Part-time	2,907	\$ 0.78	\$ 0.78	\$ 0.78	\$ 0.78	\$ 0.78	\$ 2,267	
Decision Planner Worksheet	99,485	\$ 1.12	\$ 1.12	\$ 1.12	\$ 1.12	\$ 1.12	\$ 111,423	
IVR Script Development ³ 1 ann. unit		\$ 16,557.19	\$ 16,557.19	\$ 16,557.19	\$ 16,557.19	\$ 16,557.19	\$ 16,557	
Web Screen Development ³ 1 ann. unit		\$ 18,764.83	\$ 18,764.83	\$ 18,764.83	\$ 18,764.83	\$ 18,764.83	\$ 18,765	
Confirmation/Default Notice	99,485	\$ 0.54	\$ 0.54	\$ 0.54	\$ 0.54	\$ 0.54	\$ 53,722	
Mail Spending Account Kit	17,819	\$ 0.83	\$ 0.83	\$ 0.83	\$ 0.83	\$ 0.83	\$ 14,790	
Mail Spending Account Book	2,500	\$ 0.83	\$ 0.83	\$ 0.83	\$ 0.83	\$ 0.83	\$ 2,075	
Subtotal							\$ 281,515	\$ 1,407,575
Estimated Annual Costs		\$ 3,644,000	\$ 3,866,000	\$ 4,098,000	\$ 4,344,000	\$ 4,605,000	\$ 3,643,577	\$ 20,557,000
Maximum Cap per Contract Year ⁴		\$ 3,753,000	\$ 3,979,000	\$ 4,217,000	\$ 4,471,000	\$ 4,739,000	\$	\$ 21,159,000
(Including 3% annual cap based on volume)								
Maximum Contract Sum per Contract Year ⁵		\$ 3,866,000	\$ 4,098,000	\$ 4,344,000	\$ 4,605,000	\$ 4,881,000	\$	\$ 21,794,000
(Including 3% estimated COLA increase)								
MAXIMUM CONTRACT SUM (BENEFITS PLANS SERVICES)							\$ 21,794,000	

1. All rates shown are monthly except:

- Spending Account Checks issued/mailed are per transaction. Volumes shown are assumed to be monthly. Spending Account Administration for Flex/Megaflex, Choices and Options are shown as annual rates.
- Annual enrollment rates for Flex/Megaflex, Choices, Options, Temps, and Part-time and Confirmation/Default Notices and Decision Planner Worksheet are charged one time during annual enrollment.
- Mailing of Spending Account Kit and Account Book is per kit or account mailed.

2. Rates are increased annually (benefit plan services) by applicable Cost of Living Adjustments (COLAs)

3. Fees not charged on a per transaction basis include:

- IVR Script Development for annual enrollment
- Web Screen Development for annual enrollment

4. Maximum Cap per Contract Year (Benefit Plans Services) includes 3% annual cap

5. Maximum Contract Sum per Contract Year (Benefit Plans Services) includes 3% estimated COLA increase

Legend budgeted in current contract
 proposed for extended contract

ABSENCE MANAGEMENT SERVICES

	January 1, 2012 - December 31, 2012	January 1, 2013 - December 31, 2013	January 1, 2014 - December 31, 2014	January 1, 2015 - December 31, 2015	January 1, 2016 - December 31, 2016	Five-Year Total
Implementation (Fees amortized over 5 years)						
System Configuration for County Rules, Testing and Reports, Modifications of Standard Forms and Letters, including department reference in salutation	\$ 69,000	\$ 69,000	\$ 69,000	\$ 69,000	\$ 69,000	\$ 345,000
Custom Data Interfaces	\$ 20,214	\$ 20,214	\$ 20,214	\$ 20,214	\$ 20,214	\$ 101,070
Custom Dashboard	\$ 8,740	\$ 8,740	\$ 8,740	\$ 8,740	\$ 8,740	\$ 43,700
Workers Compensation, STD/LTD interfaces	\$ 15,988	\$ 15,988	\$ 15,988	\$ 15,988	\$ 15,988	\$ 79,940
Training 8 hours	\$ 3,058	\$ 3,058	\$ 3,058	\$ 3,058	\$ 3,058	\$ 15,290
Subtotal	\$ 117,000	\$ 117,000	\$ 117,000	\$ 117,000	\$ 117,000	\$ 585,000
Ongoing						
System Access Fee	\$ 308,000	\$ 308,000	\$ 308,000	\$ 308,000	\$ 308,000	\$ 1,540,000
Stewardship and System Maintenance	\$ 25,000	\$ 25,000	\$ 25,000	\$ 25,000	\$ 25,000	\$ 125,000
Subtotal	\$ 333,000	\$ 333,000	\$ 333,000	\$ 333,000	\$ 333,000	\$ 1,665,000
Maximum Contract Sum (Absence Management Services) per Contract Year	\$ 450,000	\$ 450,000	\$ 450,000	\$ 450,000	\$ 450,000	\$ 2,250,000

MAXIMUM CONTRACT SUM (ABSENCE MANAGEMENT SERVICES)

\$ 2,250,000

1. CONTRACTOR will continue to receive one daily file from COUNTY from the CWTAPPs and/or eHR system.
2. Fees assume up to 5 feeds from Workers Compensation, STD/LTD carriers on a monthly basis.
3. CONTRACTOR will amortize the implementation fee over the 5-year term. In the event that COUNTY terminates in less than 5 years pursuant to Paragraph 34.0 (Termination for Convenience), COUNTY will pay Buck for any remaining unamortized implementation fees for Absence Management Services.
4. CONTRACTOR will provide eight hours of web-based training pursuant to the Statement of Work, Deliverable 4e. Additional on-site training is available at a fee of \$175 per hour plus travel and expenses to Absence Management Services in accordance with the then-existing County policy on Travel and Expenses.
5. Access to the Absence Management Services will be provided to representatives in all 38 COUNTY departments. COUNTY will define User groups including the number of Users by department and in the aggregate that will have system access. Access will be available for up to 350 Users.
6. The Employee Self Service feature will not be deployed for the Absence Management Services.
7. The system will support 115,000 active and terminated COUNTY employees. In the event that the active and terminated employees maintained on the system exceeds 115,000, Buck may charge an additional fee of \$30.80 per employee per year for each employee over 115,000.
8. Fees assume two - three summary and/or individual custom level dashboard reports accessible to Users through the County of LA Benefits Portal for the Absence Management Services.
9. Fees assume single sign-on Integration from the County of LA Benefits Portal to LeaveLink® (Assumes SAML 1.1 BPP Implementation).

AFFORDABLE CARE ACT EMPLOYER MANDATE TRACKING AND REPORTING SERVICES

START-UP SERVICES & FEES	2015	2016
HealthAct Base System Setup: Assumes standard implementation, Full Time Employee Determination - Lookback Method; Setup of HealthAct database; configuration on HealthAct platform; inbound file from County in Contractor's standard file layout format; testing and setup; and administrative portal;	\$5,000.00	
Additional inbound files in Contractor's standard file layout format, testing and setup;	\$0.00	
IRC 6055/6056 Reporting, file processing, and system maintenance; Form 1095-B and Form 1095-C configuration and setup;	\$17,500.00	
HealthAct Participant Portal implementation; Setup and configuration on HealthAct platform.	\$4,500.00	
<u>TOTAL START-UP SERVICES & FEES</u>	<u>\$27,000.00</u>	

ONGOING SERVICES & FEES	2015	2016
Pay Rate Safe Harbor Fee		\$9,000.00
Transmittal per IRC 6055/6056 (for 2015 Tax Year); <i>Data</i> file set for Form 1095-C and Form 1095-B; Form 1094-B and Form 1094-C XML setup (for IRS transmission);		\$14,500.00
Form 1095-B and Form 1095-C production and distribution; \$1.65 per piece, 102,000 FTEs and self-insured COBRA and survivors; includes \$0.43 for print/fulfillment; postage not included. Billed monthly as statements issued; mailing bulk in February 2016;		\$168,300.00
FTE Determination, file processing, and system maintenance; \$4,000 per monthly file starting from January 2015 through December 2016;	\$48,000.00	\$48,000.00
Reporting: \$3,000 fee for each reporting month; monthly operations; and file and data management;	\$36,000.00	\$36,000.00
IRS Transmission of Form 1094-B & Form 1094-C.		\$23,500.00
ONGOING FEES:	\$84,000.00	\$299,300.00
TOTAL ANNUAL FEES:	\$111,000.00	\$299,300.00
<u>TOTAL ADDITIONAL CONTRACT SUM (AFFORDABLE CARE ACT EMPLOYER MANDATE TRACKING AND REPORTING SERVICES):</u>		<u>\$410,300.00</u>

EXHIBIT J

INFORMATION SECURITY REQUIREMENTS

INFORMATION SECURITY REQUIREMENTS

This sets forth information security procedures to be established by Contractor before the effective date of the Contract and maintained throughout the term of the Contract. These procedures are in addition to the requirements of the Contract and the Business Associate Agreement between the Parties. They present a minimum standard only. However, it is Contractor's sole obligation to: (i) implement appropriate measures to secure its systems and data, including Personal Information, Protected Health Information, and County Confidential Information, against internal and external threats and risks; and (ii) continuously review and revise those measures to address ongoing threats and risks. Failure to comply with the minimum standards set forth in this Exhibit J (Information Security Requirements) will constitute a material, non-curable breach of the Contract by Contractor, entitling County, in addition to and cumulative of all other remedies available to it at law, in equity, or under the Contract, to immediately terminate the Contract. Unless specifically defined in this Exhibit, capitalized terms shall have the meanings set forth in the Contract.

1. **Security Policy.** Contractor shall establish and maintain a formal, documented, mandated, company-wide information security program, including security policies, standards and procedures (collectively "**Information Security Policy**"). The Information Security Policy will be communicated to all Contractor personnel in a relevant, accessible, and understandable form and will be regularly reviewed and evaluated to ensure its operational effectiveness, compliance with all applicable laws and regulations, and to address new threats and risks.
2. **Personnel and Contractor Protections.** Contractor shall screen and conduct background checks on all Contractor personnel contacting County Confidential Information, including Personally Identifiable Information and Protected Health Information, for potential security risks and require all employees and contractors to sign an appropriate written confidentiality/non-disclosure agreement. All agreements with third-parties involving access to Contractor's systems and data, including all outsourcing arrangements and maintenance and support agreements (including facilities maintenance), shall specifically address security risks, controls, and procedures for information systems. Contractor shall supply each of its Contractor personnel with appropriate, ongoing training regarding information security procedures, risks, and threats. Contractor shall have an established set of procedures to ensure Contractor personnel promptly report actual and/or suspected breaches of security.
3. **Removable Media.** Except in the context of Contractor's routine back-ups or as otherwise specifically authorized by County in writing, Contractor shall institute strict security controls, including encryption of Removable Media (as defined below), to prevent transfer of Personally Identifiable Information and Protected Health Information to any form of Removable Media. For purposes of this Exhibit J (Information Security Requirements), "**Removable Media**" means portable or removable hard disks, floppy disks, USB memory drives, zip disks, optical disks, CDs, DVDs, digital film, digital cameras, memory cards (e.g., Secure Digital (SD), Memory Sticks (MS), CompactFlash (CF), SmartMedia (SM), MultiMediaCard (MMC), and xD-Picture Card (xD)), magnetic tape, and all other removable data storage media.
4. **Storage, Transmission, and Destruction of Protected Health Information.** All Protected Health Information shall be rendered unusable, unreadable, or indecipherable to unauthorized individuals in accordance with HIPAA, as amended and supplemented by the HITECH Act.

Without limiting the generality of the foregoing, Contractor will encrypt all workstations and portable devices (e.g., mobile, wearables, tablets, thumb drives, external hard drives) that store County Confidential Information (including Protected Health Information) in accordance with Federal Information Processing Standard (FIPS) 140-2. Contractor will encrypt County Confidential Information transmitted on networks outside of Contractor's control with Secure Socket Layer (SSL or TLS) at a minimum cipher strength of 128 bit. If County Confidential Information is no longer required to be retained by Contractor under the Contract and applicable law, Contractor shall destroy such information by: (a) shredding or otherwise destroying paper, film, or other hard copy media so that the information cannot be read or otherwise cannot be reconstructed; and (b) clearing, purging, or destroying electronic media containing Protected Health Information consistent with NIST Special Publication 800-88, Guidelines for Media Sanitization such that the Protected Health Information cannot be retrieved.

5. **Data Control; Media Disposal and Servicing.** Subject to and without limiting the requirements under Section 4 (Storage, Transmission and Destruction of Protected Health Information), Personally Identifiable Information, Protected Health Information, and County Confidential Information: (i) may only be made available and accessible to those parties explicitly authorized under the Contract or otherwise expressly Approved by County in writing; (ii) if transferred across the Internet, any wireless network (e.g., cellular, 802.11x, or similar technology), or other public or shared networks, must be protected using appropriate encryption technology as designated or Approved by County in writing; and (iii) if transferred using Removable Media (as defined above) must be sent via a bonded courier or protected using encryption technology designated by Contractor and Approved by County in writing. The foregoing requirements shall apply to back-up data stored by Contractor at off-site facilities. In the event any hardware, storage media, or Removable Media must be disposed of or sent off-site for servicing, Contractor shall ensure all County Confidential Information, including Personally Identifiable Information and Protected Health Information, has been cleared, purged, or scrubbed from such hardware and/or media using industry best practices (e.g., NIST Special Publication 800-88, Guidelines for Media Sanitization).
6. **Hardware Return.** Upon termination or expiration of the Contract or at any time upon County's request, Contractor will return all hardware, if any, provided by County containing Personally Identifiable Information, Protected Health Information, or County Confidential Information to County. The Personally Identifiable Information, Protected Health Information, and County Confidential Information shall not be removed or altered in any way. The hardware should be physically sealed and returned via a bonded courier or as otherwise directed by County. In the event the hardware containing County Confidential Information or Personally Identifiable Information is owned by Contractor or a third-party, a notarized statement, detailing the destruction method used and the data sets involved, the date of destruction, and the company or individual who performed the destruction will be sent to a designated County security representative within fifteen (15) days of termination or expiration of the Contract or at any time upon County's request. Contractor's destruction or erasure of Personal Information and Protected Health Information pursuant to this Section shall be in compliance with industry Best Practices (e.g., NIST Special Publication 800-88, Guidelines for Media Sanitization).
7. **Physical and Environmental Security.** Contractor facilities that process Personally Identifiable Information, Protected Health Information, or County Confidential Information will be housed in secure areas and protected by perimeter security such as barrier access controls

(e.g., the use of guards and entry badges) that provide a physically secure environment from unauthorized access, damage, and interference.

8. **Communications and Operational Management.** Contractor shall: (i) monitor and manage all of its information processing facilities, including, without limitation, implementing operational procedures, change management and incident response procedures; and (ii) deploy adequate anti-viral software and adequate back-up facilities to ensure essential business information can be promptly recovered in the event of a disaster or media failure; and (iii) ensure its operating procedures will be adequately documented and designed to protect information, computer media, and data from theft and unauthorized access.
9. **Access Control.** Contractor shall implement formal procedures to control access to its systems, services, and data, including, but not limited to, user account management procedures and the following controls:
 - a. Network access to both internal and external networked services shall be controlled, including, but not limited to, the use of properly configured firewalls;
 - b. Operating systems will be used to enforce access controls to computer resources including, but not limited to, authentication, authorization, and event logging;
 - c. Applications will include access control to limit user access to information and application system functions; and
 - d. All systems will be monitored to detect deviation from access control policies and identify suspicious activity. Contractor shall record, review and act upon all events in accordance with incident response policies set forth below.
10. **Security Incident.** A "Security Incident" shall mean the attempted or successful unauthorized access, use, disclosure, modification or interference with system operations in an information system, as such term is defined in 45 C.F.R. § 164.304.
 - a. Contractor will promptly notify (but in no event more than twenty-four (24) hours after the detection of a Security Incident) the designated County security contact by telephone and subsequently via written letter of any potential or actual security attacks or Security Incidents.
 - b. The notice shall include the approximate date and time of the occurrence and a summary of the relevant facts, including a description of measures being taken to address the occurrence. A Security Incident includes instances in which internal personnel access systems in excess of their user rights or use the systems inappropriately.
 - c. Contractor will provide a monthly report of all Security Incidents noting the actions taken. This will be provided via a written letter to the County security representative on or before the first (1st) week of each calendar month. County or its third-party designee may, but is not obligated, perform audits and security tests of Contractor's environment that may include, but are not limited to, interviews of relevant personnel, review of documentation, or technical inspection of systems, as they relate to the receipt,

maintenance, use, retention, and authorized destruction of Personally Identifiable Information, Protected Health Information, and County Confidential Information.

- d. County reserves the right to view, upon request, summary results (i.e., the number of high, medium and low vulnerabilities) and related corrective action schedule for which Contractor has undertaken on its behalf to assess Contractor's own network security. If requested, copies of these summary results and corrective action schedule will be sent to the County security contact.

- 11. Contractor Self Audit.** Contractor will provide to County a summary of: (1) the results of any security audits, security reviews, or other relevant audits listed below, conducted by Contractor or a third-party; and (2) the corrective actions or modifications, if any, Contractor will implement in response to such audits.

Relevant audits conducted by Contractor as of the Effective Date include:

- a. ISO 27001:2013 (Information Security Management) or FDA's Quality System Regulation, etc. – Contractor-Wide. A full recertification is conducted every three (3) years with surveillance audits annually.
 - (i) **External Audit** – Audit conducted by non-Contractor personnel, to assess Contractor's level of compliance to applicable regulations, standards, and contractual requirements.
 - (ii) **Internal Audit** – Audit conducted by qualified Contractor Personnel (or contracted designee) not responsible for the area of review, of Contractor organizations, operations, processes, and procedures, to assess compliance to and effectiveness of Contractor's Quality System ("CQS") in support of applicable regulations, standards, and requirements.
 - (iii) **Supplier Audit** – Quality audit conducted by qualified Contractor Personnel (or contracted designee) of product and service suppliers contracted by Contractor for internal or Contractor client use.
 - (iv) **Detailed findings** – are not published externally, but a summary of the report findings, and corrective actions, if any, will be made available to County as provided above and the ISO certificate is published on Buck Consultants LLC.
- b. SSAE-16 (formerly known as SAS -70 II) – As to the Hosting Services only:
 - (i) Audit spans a full twelve (12) months of operation and is produced annually.
 - (ii) The resulting detailed report is available to County.
Detailed findings are not published externally, but a summary of the report findings, and corrective actions, if any, will be made available to County as provided above.

- 12. Security Audits.** In addition to the audits described in Section 11 (Contractor Self Audit), during the term of this Contract, County or its third-party designee may annually, or more frequently as agreed in writing by the Parties, request a security audit of Contractor's data center and systems. The audit will take place at a time mutually agreed to by the Parties, but in no event on a date more than ninety (90) days from the date of the request by County. County's request for security audit will specify the areas (e.g., Administrative, Physical and

Technical) that are subject to the audit and may include but not limited to physical controls inspection, process reviews, policy reviews evidence of external and internal vulnerability scans, penetration tests results, evidence of code reviews, and evidence of system configuration and audit log reviews. County shall pay for all third-party costs associated with the audit. It is understood that summary data of the results may filtered to remove the specific information of other Contractor customers such as IP address, server names, etc.. Contractor shall cooperate with County in the development of the scope and methodology for the audit, and the timing and implementation of the audit. Any of the County's regulators shall have the same right upon request, to request an audit as described above. Contractor agrees to comply with all reasonable recommendations that result from such inspections, tests, and audits within reasonable timeframes.

13. Confidentiality

- a. Contractor agrees that all information supplied by its affiliates and agents to the County including, without limitation, (a) any information relating to County's customers, patients, business partners, or personnel; (b) Personally Identifiable Information (as defined below); and (c) Protected Health Information, as specified in the Contract Paragraph 50.0 – Contractor's Obligation as a Business Associate under The Health Insurance Portability and Accountability Act of 1996 (HIPAA) and The Health Information Technology for Economic and Public Health Act (HITECH), will be deemed confidential and proprietary to the County, regardless of whether such information was disclosed intentionally or unintentionally or marked as "confidential" or "proprietary" ("Confidential Information"). To be deemed "Confidential Information", trade secrets and mask works must be plainly and prominently marked with restrictive legends.
- b. **County Data.** All of the County Confidential Information, data, records, and information of County to which Contractor has access, or otherwise provided to Contractor under this Purchase Order ("County Data"), shall be and remain the property of County and County shall retain exclusive rights and ownership thereto. The County Data shall not be used by Contractor for any purpose other than as required under this Contract, nor shall such data or any part of such data be disclosed, sold, assigned, leased, or otherwise disposed of to third-parties by Contractor or commercially exploited or otherwise used by or on behalf of Contractor, its officers, directors, employees, or agents.
- c. **Non-Exclusive Equitable Remedy.** Contractor acknowledges and agrees that due to the unique nature of Confidential Information there can be no adequate remedy at law for any breach of its obligations hereunder, that any such breach or threatened breach may result in irreparable harm to County, and therefore, that upon any such breach or any threat thereof, County will be entitled to appropriate equitable remedies, and may seek injunctive relief from a court of competent jurisdiction without the necessity of proving actual loss, in addition to whatever remedies either of them might have at law or equity. Any breach of this Section 13 (Confidentiality) shall constitute a material breach of this Contract and be grounds for immediate termination of this Contract in the exclusive discretion of the County.

- d. **Personally Identifiable Information.** “Personally Identifiable Information” shall mean any information that identifies a person, including, but not limited to, name, address, email address, passwords, account numbers, social security numbers, credit card information, personal financial or healthcare information, personal preferences, demographic data, marketing data, credit data, or any other identification data. For the avoidance of doubt, Personally Identifiable Information shall include, but not be limited to, all “nonpublic personal information,” as defined under the Gramm-Leach-Bliley Act (15 United States Code (“U.S.C.”) §6801 et seq.), Protected Health Information, and “Personally Identifiable Information” as that term is defined in EU Data Protection Directive (Directive 95/46/EEC) on the protection of individuals with regard to processing of personal data and the free movement of such data.
- i. **Personally Identifiable Information.** In connection with this Contract and performance of the services, Contractor may be provided or obtain, from County or otherwise, Personally Identifiable Information pertaining to County's current and prospective personnel, directors and officers, agents, investors, patients, and customers and may need to process such Personally Identifiable Information and/or transfer it, all subject to the restrictions set forth in this Contract and otherwise in compliance with all applicable foreign and domestic laws and regulations for the sole purpose of performing the services.
- ii. **Treatment of Personally Identifiable Information.** Without limiting any other warranty or obligations specified in this Contract, and in particular the confidential provisions of Subparagraph 6.5 (Confidentiality) of the body of the Contract, during the term of this Contract and thereafter in perpetuity, Contractor will not gather, store, log, archive, use, or otherwise retain any Personally Identifiable Information in any manner and will not disclose, distribute, sell, share, rent, or otherwise retain any Personally Identifiable Information to any third-party, except as expressly required to perform its obligations in this Contract or as Contractor may be expressly directed in advance in writing by County. Contractor represents and warrants that Contractor will use and process Personally Identifiable Information only in compliance with (a) this Contract, (b) County's then current privacy policy, and (c) all applicable local, state, and federal laws and regulations (including, but not limited to, current and future laws and regulations relating to spamming, privacy, confidentiality, data security, and consumer protection).
- iii. **Retention of Personally Identifiable Information.** Contractor will not retain any Personally Identifiable Information for any period longer than necessary for Contractor to fulfill its obligations under this Contract. As soon as Contractor no longer needs to retain such Personally Identifiable Information in order to perform its duties under this Contract, Contractor will promptly return or destroy or erase all originals and copies of such Personally Identifiable Information.
- e. **Return of Confidential Information.** On County's written request or upon expiration or termination of this Contract for any reason, Contractor will promptly: (a) return or destroy, at County's option, all originals and copies of all documents and materials it has received containing County's Confidential Information; (b) if return or destruction is not permissible under applicable law, continue to protect such information in

accordance with the terms of this Contract; and (c) deliver or destroy, at County's option, all originals and copies of all summaries, records, descriptions, modifications, negatives, drawings, adoptions and other documents or materials, whether in writing or in machine-readable form, prepared by Contractor, prepared under its direction, or at its request, from the documents and materials referred to in Subsection 13(a), and provide a notarized written statement to County certifying that all documents and materials referred to in Subsections 13(a) and (b) have been delivered to County or destroyed, as requested by County. On termination or expiration of this Contract, County shall return or destroy all Contractor Confidential Information (excluding items licensed to County hereunder or that are required for use of the Deliverables and/or the Licensed Software), at Contractor's option.



COUNTY OF LOS ANGELES

DEPARTMENT OF HUMAN RESOURCES

HEADQUARTERS
579 KENNETH HAHN HALL OF ADMINISTRATION • LOS ANGELES, CALIFORNIA 90012
(213) 974-2406 FAX (213) 621-0387

BRANCH OFFICE
3333 WILSHIRE BOULEVARD • LOS ANGELES, CALIFORNIA 90010
(213) 738-2211 FAX (213) 637-0820

LISA M. GARRETT
DIRECTOR OF PERSONNEL

March 2, 2015

To: Each Supervisor

From: Lisa M. Garrett
Director of Personnel

Subject: **ADVANCE NOTIFICATION OF SOLE SOURCE CONTRACT
NEGOTIATIONS WITH BUCK CONSULTANTS**

In accordance with Board Policy 5.100, *Sole Source Contracts*, this is to notify you that the Department of Human Resources (DHR) intends to enter into sole source contract negotiations with Buck Consultants (Buck) to provide administrative services in compliance with the Affordable Care Act (ACA) to produce Internal Revenue Service (IRS) reports in January 2016 and determine full-time employee (FTE) status according to the provisions of the ACA.

In 2015, DHR will conduct a request for proposals (RFP) for the third-party administrative (TPA) services currently provided by Buck. These new services for FTE determination and IRS reporting services will be included in the solicitation for a contract effective by January 1, 2017.

In 2016 for calendar year 2015, the regulations under the ACA impose significant reporting requirements on employers with over 50 employees, and plan sponsors. Such entities are required to provide detailed statements to employees enrolled in and/or offered medical coverage by January 31, 2016. Detailed statements are due to the IRS by March 31, 2016, along with a transmittal of employer-provided health insurance. The reporting is intended to support the IRS enforcement of the ACA's individual insurance mandate. Failure to comply with this regulation will result in penalties of more than \$2 million.

To comply with the ACA regulations, the County will need the services of Buck to determine FTE status, track hours, measurement periods, administrative periods, stability periods, health benefits enrollments for each individual employee and for family members of employees enrolled in a self-insured plan, and produce the mandated IRS forms.

Each Supervisor
March 2, 2015
Page 2

Negotiating this contract with Buck will ensure the County complies timely with the new ACA requirements. We believe that it is in the best interest of the County to enter into the sole source negotiations with Buck to provide these services, with the understanding that in 2015, DHR will commence an RFP for the TPA and ACA services provided by Buck. Staff from the Chief Executive Office and Auditor-Controller agree that the County currently does not have the capacity to internally produce the required reports, and that Buck has the background and infrastructure to meet the County's needs.

We anticipate administrative cost savings and a more expeditious execution of services because the Buck system holds most of the benefits data required for the IRS reporting. Buck is also familiar with the existing system interfaces with the Auditor-Controller and the County benefits, payroll process, and systems through its existing TPA contract.

Attached is the justification for the sole source contracts. DHR will proceed with the sole source contract negotiations with Buck within two weeks unless instructed otherwise by your Board.

Should you have any questions, please contact me at (213) 974-2406 or Shawn Atin, Assistant Director, at (213) 974-2631.

LMG:EP:SA
EMC:bc

Attachment


c: Sachi A. Hamai, Interim Chief Executive Officer

S:\BR1SEC\Employee Benefits\LMG to BOS Re. Sole Source with Buck for ACA.docx

SOLE SOURCE CHECKLIST

Buck Consultants

Check (√)	JUSTIFICATION FOR SOLE SOURCE CONTRACTS
	<p>Identify applicable justification and provide documentation for each checked item.</p> <ul style="list-style-type: none"> ➤ Only one bona fide source for the service exists; performance and price competition are not available.
√	<ul style="list-style-type: none"> ➤ Quick action is required (emergency situation). <p>The Buck Consultant (Buck) contract will provide administrative services for ACA Compliance. The services are required immediately in order to comply with the Affordable Care Act (ACA) requirements on large employers to determine full-time employee (FTE) status; and issue individual Internal Revenue Service (IRS) forms to employees. Reporting requirements are effective for medical coverage provided on or after January 1, 2015. IRS forms must be delivered to employees by January 31, 2016; and to the IRS by March 31, 2016.</p> <p>In 2014, the Department of Human Resources (DHR) asked Buck to provide a review of its medical plans for the ACA plan mandates and insurance market reforms, and assist the County in developing its strategy for complying with the ACA regulations that became final in August 2014. As soon as Buck completed its analysis in December 2014, DHR, in consultation with the Chief Executive Office and the Office of the Auditor-Controller, concluded that the County did not have the resources or expertise to meet the ACA mandates that require the County to compile detailed, month-by-month information beginning January 2015, and fulfill the IRS reporting requirements.</p>
	<ul style="list-style-type: none"> ➤ Proposals have been solicited, but no satisfactory proposals were received.
	<ul style="list-style-type: none"> ➤ Additional services are needed to complete an ongoing task and it would be prohibitively costly in time and money to seek a new service provider.
	<ul style="list-style-type: none"> ➤ Maintenance service agreements exist on equipment which must be services by the authorized manufacturer's service representatives.
	<ul style="list-style-type: none"> ➤ It is most cost-efficient to obtain services by exercising an option under an existing contract.
√	<ul style="list-style-type: none"> ➤ It is in the best interest of the County, e.g. administrative cost savings, excessive learning curve for a new service provider, etc. <p>Buck will provide services to assist the County with the ACA FTE determination and IRS reporting. Buck is the selected administrator for this service for reasons that include:</p>

	<ol style="list-style-type: none"> 1. Buck currently has a contract with the County to administer health benefits for County employees and to maintain a majority of the data needed to comply with the new ACA and IRS requirements. 2. Buck currently receives daily electronic updates for all County employees through a secure data exchange that allows Buck to update the employee benefit database that includes demographic and payroll information. 3. The County will not be required to coordinate data records and program updates across different vendors, which will minimize inconsistencies in data records. 4. Buck will have a minimal learning curve about the County's benefits programs and complexities as they currently maintain health plan eligibility rules for full-time, temporary and part-time employees. 5. The County will not incur costs or have a need to invest time and resources to go through a solicitation and review process.
<p>✓</p>	<p>➤ Other reason. Please explain:</p> <p>The County will pay a penalty of up to \$1.5 million if it fails to issue IRS Employee Statements to County employees by January 31, 2016 (Internal Revenue Code section 6721); in addition, the County will pay up to \$700,000, if it fails to issue IRS Individual Statements to County employees enrolled in a self-insured plan by January 31, 2016 (Internal Revenue Code Section 6722).</p>
<div style="display: flex; justify-content: space-between;"> <div style="text-align: center;">  _____ Chief Executive Office </div> <div style="text-align: center;"> <p>2-27-15</p> _____ Date </div> </div>	